

CITY COUNCIL AGENDA REPORT

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO CALIFORNIA AMENDING VARIOUS SECTIONS OF CHAPTER 5.80 "TAXICABS" OF TITLE 5 OF THE CALEXICO MUNICIPAL CODE REGULATING TAXICABS WITHIN THE CITY OF CALEXICO.

AGENDA DATE: May 20, 2009

PREPARED BY: Jennifer M. Lyon, City Attorney

APPROVED FOR AGENDA BY: City Manager, Ralph Velez



RECOMMENDATION: Consider ordinance. If appropriate, perform introduction by title only and waive full reading of the ordinance.

FISCAL IMPACT: Possible costs to enforce new provisions and possible costs associated with the appeal process.

BACKGROUND INFORMATION: The City adopted a Taxicab Ordinance in 2003. Council considered revisions to this ordinance several months ago and directed staff to include more authority for the chief of police in the ordinance and then bring it back to Council for adoption.

CURRENT DISCUSSION: The attached ordinance revises the City's current Taxicab Ordinance. This ordinance will ensure more efficient and centralized regulation of taxicabs and provide for the appropriate due process procedures for a person who is denied a certificate or permit, or who has a certificate or permit revoked.

Under the City's current Taxicab Ordinance, the power to approve, deny, revoke, or suspend certificates rests solely with the city council. The attached ordinance shifts the authority to revoke or suspend certificates to the chief of police, in addition to his authority under the current ordinance to approve, deny, revoke, or suspend permits.

The attached ordinance sets out the exclusive right of an occupant to the full and complete use of the passenger compartment unless the occupant chooses to share the passenger compartment. It also prohibits drivers from charging double fares in the event passengers decide to share the ride.

The attached ordinance also clarifies procedures for obtaining and maintaining permits and licenses. Most notably, the attached ordinance defines the difference between the appeal process in denying, revoking, or suspending a permit, and the appeal process in revoking or suspending a certificate. An appeal from a denial, revocation or suspension of a permit by the chief of police is submitted to the city manager's office and the

decision becomes final when the city manager renders his or her decision. An appeal from a revocation or suspension of a certificate by the chief of police is also submitted to the city manager, but further appeal may be made to the city council, and the decision to revoke or suspend a certificate becomes final on the date it is announced by the council. The attached ordinance also provides for judicial review procedures available to the owner or driver once the City's decisions are final.

Attachment: Ordinance No. _____

Agenda Item No. _____

Page _____ Of _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CALEXICO, CALIFORNIA AMENDING VARIOUS SECTIONS OF
CHAPTER 5.80 "TAXICABS" OF TITLE 5 OF THE CALEXICO
MUNICIPAL CODE REGULATING TAXICABS WITHIN THE CITY OF
CALEXICO**

WHEREAS, the City of Calexico's (the "City") purpose for regulating the operation of taxicabs within the city is to promote the convenience, safety and welfare of the traveling public and the safety and welfare of the taxicab operators; and

WHEREAS, the regulations in Chapter 5.80 of Title 5 of the Calexico Municipal Code will best assure adequate service of taxicabs and will be of the most practical benefit to the operators of the taxicabs and the general public; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO,
CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

SECTION 1. Calexico Municipal Code Section 5.08.010 is amended to read as follows:

"5.80.010 Definitions.

Unless otherwise expressly stated, the following terms are, for the purpose of this chapter, defined as follows:

"Driver" means every individual who operates any taxicab or vehicle for hire as an employee of a business owner, independently owns the taxicab or vehicle for hire and operates under the auspices of such owner or has independently contracted with such owner to operate the taxicab or vehicle for hire pursuant to a lease, license or any other form of agreement.

"Motor vehicle" means every motor vehicle used for public hire propelled by mechanically produced power and intended for use on public streets and highways, except street cars, trains, and motor busses.

"Owner" means every person, firm or corporation having use or control of any passenger-carrying automobile or motor-propelled vehicle, as defined in this section, whether as owner, lessee or otherwise.

"Revocation" as used in this chapter means termination of the privileges conferred under a permit or certificate issued under this chapter, and relinquishment of a permit or certificate by the holder of said permit or certificate to the city clerk. One year after a permit or certificate is revoked, an applicant may apply for another permit or certificate as set out in section 5.80.260(E.)

"Suspension" as used in this chapter means the temporary suspension of a permit or certificate for a specified period of time. Said suspension is to be imposed, and period of time set, at the discretion of the chief of police.

"Taxicab" means a motor-propelled passenger-carrying vehicle, and that which is operated at a fixed area rate, or upon a waiting time basis, or both, and which motor-propelled vehicle is used

for the transportation of passengers for hire over and along the public street, but not over a defined route, irrespective of whether the operations extend beyond the limits of the city, and in accordance with and under the direction of the person hiring such vehicle.

"Taximeter" means any mechanical or electronic instrument, appliance, device or machine by which the charge for hire of a motor vehicle is mechanically calculated, either for distance traveled or time consumed, or both, and upon which instrument, appliance, device or machine such charge is indicated by figures.

"Violation" means a breach or infringement of any California Vehicle Code statute, and/or any breach or infringement of a provision of this code that relates to taxicabs of handicapped persons as regulated by Ordinance 4125-N.S., hearses, ambulances, interurban trains, motor or trolley busses are not included within this definition."

SECTION 2. Calexico Municipal Code Section 5.80.030 is amended to read as follows:

"5.80.030 Certificate -- Application.

All persons applying for the certificate required by Section 5.80.020 shall file with the city council a verified application therefore on forms provided by the city which that shall set forth:

- A. The name and address of the person making the application;
- B. If at the time of making such application such person is actually operating a taxi service in the city, the number of taxicabs owned and operated by the applicant;
- C. The number of vehicles for which a certificate of public convenience and necessity is desired;
- D. The make, type, year of manufacture, and passenger seating capacity of such taxicabs for which the application for a certificate is made; and
- E. A description of the proposed insignia, trade style, or other distinguishing characteristic of the taxicab, including the operator's name which that appears on the side of the taxicab, and the number of the taxicab which that appears on the back thereof.
- F. An independent needs assessment report and findings to support the proposed application or at the city's request, a contribution toward preparation of a needs assessment report."

SECTION 3. Calexico Municipal Code Section 5.80.080 is amended to read as follows:

"5.80.080 Certificate – Revocation or suspension.

The city councilchief of police may at any time suspend or revoke the certificate granted for any of the following reasons:

- A. If the owner fails to operate taxicabs in accordance with the provisions of this chapter;
- B. If the owner discontinues or suspends operations for a period of thirty-five days without permission first had and obtained;
- C. If the owner charges rates in excess of those set forth by the city council;
- D. If the owner receives three violations of this chapter within one year; or
- E. If the owner fails to maintain a policy of insurance as required by this chapter;.
- F. If the owner fails to use the full amount of taxis as granted under his/her certificate for a period of thirty days; or.

G. If, in the opinion of the Chief of Police, the owner is operating such taxi service in such a manner that it endangers the public health, safety, or welfare.

A suspension or revocation of a certificate by the Chief of Police can be appealed pursuant to Section 5.80.330.”

SECTION 4. Calexico Municipal Code Section 5.80.090 is amended to read as follows:

“5.80.090 Certificate – When Surrendering required.

A. All certificates which that have been suspended or revoked by the council chief of police resulting from a deficiency related to insurance coverage, or that, in the opinion of the chief of police, is necessary to protect the public health and safety, shall be effective immediately regardless of the appeal process, and said certificate shall be surrendered to the city clerk, and the operation of all taxicabs covered by such certificate shall cease and be unlawful.

B. All certificates that have been suspended or revoked by the chief of police resulting from other deficiencies shall remain in effect pending the outcome of the appeal process as set forth in Section 5.80.330.

~~B. Any owner who retires and does not replace any taxicabs for a period of thirty days shall immediately surrender to the city clerk the certificate granted for such taxi.”~~

SECTION 5. Calexico Municipal Code Section 5.80.100 is amended to read as follows:

“5.80.100 Vehicle permits.

A. Permit Application. Each taxicab, operated in the city must be subject to a vehicle permit from the city issued by the chief of police as set forth herein. The application shall be in writing, signed by the owner, and shall set forth all the information required in the permit application form and accompanying documentation, including, but not limited to the following:

1. A copy of the state vehicle registration under owner’s name, license plate number and corresponding vehicle identification number of each vehicle to be operated in the city;
2. Make, model or type, year of manufacture and passenger-seating capacity of each motor vehicle for which such application is made;
3. Valid inspection certificate issued by the county of Imperial, division of weight and measures which certificate shall state the name and model number of the taximeter and the vehicle number for which it is assigned;
4. Valid vehicle inspection certificate from a city-approved vehicle inspection station for each vehicle to be operated in the city;
5. Certificates of insurance from the insurance carrier verifying the coverage required by this chapter for each vehicle to be operated in the city;
6. Final inspection of each vehicle by the city to ensure that the vehicle has met all the requirements of this chapter;

7. Satisfactory proof that the business will be operated in compliance with all provisions of this chapter.

B. Disposition of Vehicle Permit--Conditions.

1. Such vehicle permit shall be granted unless:

- a. The applicant fails to submit a complete application;
- b. The applicant makes any omission, untrue statement or provides fraudulent documentation with the application;
- c. The applicant has violated this chapter more than five times within the last three years; or
- d. There is an absence of satisfactory proof of compliance with the provisions of this chapter.

2. The issuance of a vehicle permit is conditional upon the business owner insuring that each such vehicle for hire is operated by a business owner who has obtained a certificate of public convenience and necessity and any driver of such vehicle for hire has been issued a driver's permit within the limits and in the manner set forth in this chapter.

C. Revocation or Suspension of Vehicle Permit. Vehicle Permits may be revoked or suspended by the chief of police for failure to maintain the vehicle in accordance with this chapter."

SECTION 6. Callexico Municipal Code Section 5.80.130 is amended to read as follows:

"5.80.130 Probationary licenses.

Notwithstanding the other provisions of this chapter, the city council may, upon recommendation of the chief of police may, authorize the issuance of probationary licenses for one year to applicants who may not meet all the requirements of this chapter.

SECTION 7. Callexico Municipal Code Section 5.80.200 is amended to read as follows:

"5.80.200 Most direct route required and exclusive right of passengers.

A. Any driver employed to transport passengers to a definite point shall take the most direct route that will take the passengers to their destination safely and expeditiously. However, no passengers may be dropped along First Street between Rockwood and Heffernan Streets.

B. When a taxicab is engaged, the original occupant shall have the exclusive right to the full and complete use of the passenger compartment, and no driver of such taxicab shall solicit or carry additional passengers therein unless the original occupant chooses, at his or her sole option, to share the passenger compartment. In the event the original occupant chooses to share the passenger compartment, the driver shall not charge double fares to the occupants."

SECTION 8. Callexico Municipal Code Section 5.80.260 is amended to read as follows:

"5.80.260 Chief of police - Report of violationsRevocation or suspension of permits or certificates.

A. Revocation/Suspension Determination. Whenever an owner or driver violates any provision of this chapter, the chief of police shall report to the city council such violation,

together with his recommendations in regard thereto; and the city council may, after due notice and opportunity for hearing to the owner, determine whether the permit or certificate of such owner or driver shall be revoked or suspended.

B. An owner or driver may appeal a decision of the chief of police to revoke or suspend a permit or certificate by following the procedure set forth in Section 5.80.330 of this chapter.

C. If a permit or certificate is revoked or suspended for any deficiency or violation related to insurance coverage or that in the opinion of the chief of police is necessary to protect the public health and safety, such revocation or suspension shall be effective immediately pending the outcome of the appeal process.

D. If a permit or certificate is revoked or suspended for any other deficiency or violation of this chapter, the permit or certificate shall remain in effect pending the outcome of the appeal process.

BE. Application after Revocation. Any person whose permit or certificate is thus revoked shall not be eligible to apply for another permit or certificate for a period of one year from the date of such revocation."

SECTION 9. Callexico Municipal Code Section 5.80.320 is amended to read as follows:

"5.80.320 Vehicle maintenance – Markings, safety and inspections.

A. Taxicab Color Scheme--Approval.

1. A unique and characteristic color scheme approved by the city shall be used by each business owner operating taxicabs in the city to distinguish all of the vehicles for hire such owner operates. Such color scheme shall not be used by any other business owner.

2. No change whatever in the color scheme or distinguishing characteristics of any taxicab shall be made without prior written permission of the city.

B. Taxicab Markings. It is unlawful to operate a taxicab within the city which that does not have printed or placed upon the rear door of the vehicle and on each side and rear deck of such vehicle for hire the name of the business owner. All such lettering shall be in letters not less than two and one-fourth inches in height and not less than five-sixteenths inches in stroke. In addition, the dome light markings shall read the same as the business owner's name or fictitious name written upon the rear doors and rear of the vehicle or only shall read, "Taxi." In addition, every vehicle for hire shall have printed or placed upon the exterior in conspicuous letters of the same color not less than three and one-half inches in height and not less than one-half inch stroke, of a color in contrast of to the color of the vehicle for hire, the number of such vehicle for hire, which numbering shall be printed or placed in the following locations:

1. On each side of the vehicle on the leading edge of the front door;
2. On the left side of the outside rear of the vehicle.

C. Illumination of Passenger Compartment. Every taxicab shall at all times be equipped with a light of not less than two candlepower within such vehicle, so arranged as to illuminate the entire passenger compartment, which light shall be kept constantly lighted at all times while any passengers are being loaded into or unloaded from any such vehicle for one-half hour after sunset of any day until one-half hour before sunrise of the next day, and no shades or blinds shall be drawn over the windows of any such vehicle while the same is occupied.

D. Operation When in Unsafe or Unsanitary Condition Prohibited. It is unlawful to operate any taxicab while the same or any of the equipment used thereon or therewith shall be in a defective, unsafe or unsanitary condition.

E. Inspection--Requirements For. Before a vehicle permit is issued to a taxicab business owner, each vehicle for which a vehicle permit is requested shall be delivered to a city-approved vehicle inspection station for inspection of such vehicle and its equipment to ascertain whether such vehicle and equipment comply with the provisions of this chapter. The city shall provide a list of approved vehicle inspection stations. Any vehicle which that is found after such inspection to be unsafe or in any way unsuitable for service will not be issued a vehicle permit and immediately may be ordered out of service. Before a vehicle permit is issued, or the vehicle is again placed in service, it shall be placed in a safe and sanitary condition, inspected, and a completed inspection certificate filed with the city. Each vehicle to be operated shall be reinspected upon annual renewal of the vehicle permit. The interior and exterior of any vehicle shall be clean and well maintained as determined by the city and meet California vehicle Vehicle code Code requirements and the requirements of this chapter at all times when in operation.

F. Inspection Authorized When. The chief of police or his designee shall have the authority to enforce this chapter and shall have the right, to enter into or upon any permitted taxicab or vehicle for hire in the city for the purpose of ascertaining whether or not any of the provisions of this chapter are being violated. The scope of this inspection is limited to determining compliance with the requirements of this chapter and may be done without notice, warrant, or individualized suspicion of wrongdoing.

G. Taximeter. No taxicab may be operated in the city unless said taxicab is equipped with a taximeter in good operating condition. No fare higher than what is recorded on the taximeter shall be charged. Every taximeter shall be installed at the center of the dashboard or console of the taxicab. The reading face of the taximeter shall at all times be well lighted and distinctly readable to the passengers within the taxicab.

H. Air conditioning. No taxicab may be operated in the city unless said taxicab is equipped with an air conditioner in good operating condition.

I. Clean condition. Taxicabs shall be maintained in a clean condition at all times."

SECTION10. Calexico Municipal Code Section 5.80.330 is amended to read as follows:

"5.80.330 Appeal procedure.

A decision of the chief of police to revoke, suspend or deny a permit or certificate may be appealed to the city manager by serving written notice of said appeal to the city clerk within three days of notice to the applicant/permittee of the decision of the police chief. If no appeal is filed, then the revocation or suspension shall become final and effective on the fourth day. If an appeal to the chief of police's determination is filed within three days, then tThe city manager shall then schedule an informal meeting with the appellant at a mutually agreed upon time within five working days of the date of service to the city clerk. The chief of police or his/her designee may attend the informal meeting. At the meeting, the basis for the denial, revocation or suspension shall be explained to the appellant and the appellant shall be given an opportunity to respond thereto. The city manager shall render a final decision in writing within five working days following the informal hearing. If the

revocation or suspension pertains to a permit, then the city manager's decision shall be final and the revocation or suspension shall become effective on the date that the city manager renders a written decision. No further appeal can be taken on a revocation or suspension of a permit. If the revocation or suspension pertains to a certificate, then the appellant may then appeal the city manager's decision to the city council by serving written notice of said appeal on the city clerk within five days of the city manager's decision. If no appeal of the city manager's decision to the suspension or revocation of a certificate is filed within five days, then such suspension or revocation shall become final and effective on the sixth day. If an appeal regarding a certificate is filed, the city clerk shall schedule a hearing before the city council within thirty calendar days of the date served with the notice of appeal. The decision of the council is final on the date it is announced. If the decision by the chief of police to revoke/suspend or deny relates to a permit or certificate already issued, the revocation/suspension shall not be effective until either the driver/owner has failed to serve a notice of appeal on the city clerk within three days of notice of the police chief's decision or the city manager affirms the decision, whichever occurs first. Regardless of this, notwithstanding the above, any denial/revocation/suspension resulting from a deficiency related to insurance coverage or shall be effective immediately. Any denial/revocation/suspension that, in the opinion of the chief of police, is necessary to protect the public safety, shall be effective immediately regardless of the appeal process. All time limits may be extended by mutual consent of the parties."

SECTION 11. Callexico Municipal Code Section 5.80.340 is added to read as follows:

"5.80.040 Judicial review.

A. Purpose. It is the declared purpose of this section to make the provisions of Sections 1094.5 and 1094.6 of the California Code of Civil Procedure, as amended from time to time, applicable to decisions of the city or of any commission, board, officer or agent thereof made pursuant to this chapter. The provisions of this section shall prevail over any conflicting provision in any otherwise applicable law, ordinance, or rule relating to the subject matter, except that in the case of any change in state law resulting in a conflict between state law and this chapter, state law shall prevail.

B. Judicial Review of Final Decisions. Judicial review of any final decision made under this chapter by the city, or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of the California Code of Civil Procedure only if the petition for writ of mandate authorized by said section is filed within the time limits specified in Section 1094.6 of the California Code of Civil Procedure.

C. Notice of Final Decision. In making a decision, as defined in Section 5.80.040(A), the city shall provide notice to the party that the time within which judicial review must be sought is governed by this section and Section 1094.6 of the California Code of Civil Procedure."

SECTION 121. Except as amended above, the remaining provisions of Chapter 5.80 of Title 5, Taxicabs, shall remain the same.

SECTION 132. This Ordinance shall take effect 30 days after the date of its adoption.

Adopted and approved this _____ day of _____, 2009.

Louis Fuentes, Mayor

ATTEST:

APPROVED AS TO FORM:

Lourdes Cordova, City Clerk

Jennifer M. Lyon, City Attorney

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) SS.
CITY OF CALEXICO)

I, LOURDES CORDOVA, CITY CLERK OF THE CITY OF CALEXICO, DO
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING ORDINANCE NO. ____ WAS
DULY PASSED AND ADOPTED BY THE CITY COUNCIL AT A REGULAR SESSION
HELD ON THE _____ DAY OF _____, 2009, BY THE FOLLOWING VOTE TO WIT:

AYES:
NOES:
ABSENT:

LOURDES CORDOVA, CITY CLERK